

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOY SWEETING,

Plaintiff,

v.

HIGHMARK, INC.,

Defendant.

Civil Action No. 04-368 - Erie

The Hon. Sean J. McLaughlin

ELECTRONIC FILING

**SUPPLEMENTAL APPENDIX IN SUPPORT OF HIGHMARK'S
MOTION FOR SUMMARY JUDGMENT**

Martha Hartle Munsch
PA ID No. 18176
mmunsch@reedsmith.com
Shweta Gupta
PA ID No. 84388
sgupta@reedsmith.com
REED SMITH LLP
435 Sixth Avenue
Pittsburgh, PA 15219
412-288-4118/4054

Counsel for Defendant
Highmark Inc.

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TAB A

1 Q. Yes, was that one of the things you thought
2 about? It's not a trick question in any way.

3 A. I don't remember.

4 Q. Okay. Did you consider the various experience
5 of the two individuals, for example, what jobs
6 they had performed and how that might play into
7 the new organization when you gave that answer?

8 A. You know, I may have. Again, it was emotional
9 my reaction, it was my relationships. I had
10 worked with Joy longer and very deeply.

11 MR. SANSONE: We'll take five
12 minutes.

13 - - - -
14 (There was a brief pause in the proceedings.)

15 - - - -
16 MR. SANSONE: We don't have anything
17 else.

18 MS. MUNSCH: I just have one or two
19 questions, then we'll let Carl hit the road to
20 Baltimore. He's got to drive to Baltimore
21 tonight.

22 - - - -
23 (There was a discussion off the record.)

24 - - - -

25 EXAMINATION

QUALITY

Bethel Park, PA COURT REPORTING 412-833-3434

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BY MS. MUNSCH:

Q. Tina, in addition to the one -- I think there's one written complaint in your file that came in about Ms. Sweeting, did you receive any oral complaints over the years about Ms. Sweeting, specifically about how she interacted with others?

A. Yes, there were times that I received complaints.

Q. Okay.

A. And it was more from the perspective of they didn't like how she talked to them or it was just how she chose her words or whatever, but we always talked about it.

Q. I was going to say did you coach Ms. Sweeting about that, meet with her and talk to her about that?

A. If I knew about it, yeah.

Q. Okay.

A. And -- yeah.

Q. But am I correct that you did not record that anywhere in her performance reviews or elsewhere in writing in the file?

A. No.

1 Q. You dealt with it in person with her through
2 coaching?

3 A. Correct.

4 MS. MUNSCH: I have nothing further.

5 MR. SANSONE: I'll just follow up on
6 that a little bit.

7 - - - -

8 RE-EXAMINATION

9 - - - -

10 BY MR. SANSONE:

11 Q. How long do you recall having received these
12 complaints about my client's interaction with
13 individuals?

14 A. Like how long ago or how long --

15 Q. Over what period of time during the ten years
16 that you interacted with my client, was it a
17 problem from the beginning, did it develop late,
18 was it something you remember for many years or
19 what?

20 A. It was periodic through the whole time. I mean
21 I don't remember -- I mean I can't give you a
22 specific answer to that, but we would always
23 talk about it, and it often was around just
24 choice of words. She's direct.

25 Q. Did you consider this a significant performance

1 problem on my client's part?

2 A. Whenever we would talk, you know what, she
3 always understood why someone perceived it the
4 way they did. I didn't feel I needed to put it
5 in a performance appraisal or anything like
6 that, just talking about it, maybe talking about
7 different choices of words based on how people
8 perceive things.

9 Q. I'm sorry, but my question was just a tiny bit
10 different.

11 A. Okay.

12 Q. Did you perceive this as a significant
13 performance problem on my client's part?

14 A. Not significant, certainly, you know, one of her
15 areas that she needed to be focused on.

16 Q. Okay. Did you have any sense that this problem
17 was getting worse as the years went on or was it
18 pretty much the same level of problem if it was
19 a problem?

20 A. The same level.

21 Q. It wasn't like toward the end there were just
22 all kinds of new complaints and higher levels of
23 complaints or something like that?

24 A. No.

25 Q. Were HealthPLACE administrators frequently the

1 subject of complaints by customers of the
2 HealthPLACES?

3 A. No, not frequently, no.

4 Q. So the level of complaints that were against Joy
5 in this regard might have been unusual by
6 comparison to others in the same position?

7 A. There were more.

8 Q. Okay.

9 A. Again, Joy's direct, and they all have different
10 personalities

11 MR. SANSONE: That's all I have.

12 MS. MUNSCH: We'll read and sign.

13 - - - -

14 (The proceedings were concluded at 4:28 p.m.)

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TAB B

*** CONFIDENTIAL ***

1 MR. SANSONE: That's all I have.

2 MS. MUNSCH: I just have a few
3 questions for Ms. Swick.

4 - - - -

5 EXAMINATION

6 - - - -

7 BY MS. MUNSCH:

8 Q. Ms. Swick, in your current job as community site
9 consultant do you have any mentoring of health
10 professionals as part of that job currently?

11 A. No, and I know that -- I was reading that as
12 part of the description. No, I don't know what
13 they mean by that actually.

14 Q. Now, going back to when you were working with
15 Ms. Sweeting in HealthPLACE, you testified
16 earlier that you observed that Ms. Sweeting --
17 you observed her interactions with others, and I
18 believe you characterized those interactions
19 as -- you observed that she was rude and short
20 with people?

21 A. At times.

22 Q. Can you recall an example of a specific instance
23 where Ms. Sweeting was rude or abrupt with let's
24 say a customer or patron of HealthPLACE that
25 would illustrate what you meant by that

*** CONFIDENTIAL ***

1 characterization?

2 A. Yeah. In particular -- this was pretty much

3 near the closing of HealthPLACE, and actually I

4 kind of remember this as kind of what -- I don't

5 know, what cut it for me. Our offices were

6 right next to each other in the lobby of

7 HealthPLACE, and there was a gentleman that came

8 in to see our dietitian, and he said -- I think

9 it was 1 o'clock, and he said I'm here for my

10 appointment, and I checked the book, and I said,

11 I'm sorry, sir, your appointment was at

12 10 o'clock. He was hobbling, he had just had

13 surgery. He said, oh, geeze, I just got off the

14 bus, can I sit down, is there any way you can

15 fit me in. And I said, we're booked up for the

16 rest of the afternoon. You know, you can have a

17 seat, I can check with the dietitian, I can't

18 promise you anything, we may or may not be able

19 to fit you in, but have a seat, we'll see what

20 we can do for you. So I went back in my office,

21 I talked to the dietitian, I let her know that

22 there was a gentleman, that if she could

23 possibly fit in, and I was sitting there.

24 Obviously Joy must have heard what was going on.

25 I hear her walk out to this man and chastise him

*** CONFIDENTIAL ***

1 because he missed his appointment. Your
2 appointment was at 10 o'clock, we don't have
3 time to fit you in, we don't have time to fit
4 you in. He said, well, that lady said that I
5 could wait and maybe you could fit me in. No,
6 absolutely not, we go by appointments, blah,
7 blah, blah, told him basically he had to leave
8 the lobby area. I was at this point just fuming
9 listening to this. She came into my office, and
10 I said, don't ever do that to me. I never, ever
11 talked back to her, and I talked back to her
12 that day, and I said, do not undermine me like
13 that, I let this gentleman know he could sit
14 there, there was no reason you had to kick him
15 out of here, and she did it anyway. And that
16 cut it for me. And at that point my patience
17 had pretty much run out. That was the big one
18 for me.

19 Q. In terms of the individual, you say he was
20 hobbling I believe?

21 A. I think he had a cane.

22 Q. Did you observe in terms of his age, was he a
23 young man, an older man?

24 A. He was later middle-aged to older, an
25 African-American gentleman. Like I said, I

*** CONFIDENTIAL ***

1 believe he had a cane. I thought that he had
2 foot surgery was what he said.

3 Q. A patron of HealthPLACE, a customer?

4 A. Yeah. Well, he was there to see the dietitian,
5 and he had misjudged his appointment.

6 Q. There was also some testimony earlier about the
7 matter of flexibility. Ms. Swick, would you --
8 based upon your observations and interactions
9 with Ms. Sweeting over the years, would you
10 characterize Ms. Sweeting as someone who was
11 flexible or on the other hand someone who was
12 rigid?

13 A. To work with, very rigid. She liked things --
14 you know, people like things the way they like
15 things, she likes things the way that she likes
16 things.

17 Q. Did you observe that same characteristic with
18 respect to how she dealt with the customers and
19 patrons that came to HealthPLACE, would you
20 characterize her as being flexible or rigid?

21 A. She would frequently get into arguments with
22 people.

23 Q. Customers?

24 A. Customers, people that would come to our health
25 screenings, arguing whether or not they had an

QUALITY

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February, 2006, the foregoing Supplemental Appendix In Support Of Highmark's Motion For Summary Judgment was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/ s / Martha Hartle Munsch
Martha Hartle Munsch, Esq.
(PA ID No. 18176)
mhmunsch@reedsmith.com
ReedSmithLLP
435 Sixth Avenue
Pittsburgh, PA 15219
Ph: 412.288.4118
Fax: 412.288.3063
Counsel for Defendant